

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RICHARD BREUNINGER and ITGA, LLC,

Plaintiffs,

-v-

T. EDWARD WILLIAMS *et al.*,

Defendants.  
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20-CV-7033 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

Plaintiffs bring this action against T. Edward Williams, Jane Doe Williams, and Peyrot and Associates, P.C. invoking subject matter jurisdiction by reason of diversity of citizenship, 28 U.S.C. § 1332. Dkt. 19 ¶ 11. The Court previously ordered the Plaintiffs to amend their Complaint to allege the domicile for Plaintiff Richard Breuninger and Defendants T. Edward Williams and Jane Doe Williams. *See* Dkt. 18. Plaintiffs filed an Amended Complaint, but yet again failed to allege the domicile of Jane Doe Williams, only alleging that she “is a resident of Colorado and New York.” Dkt. 19 ¶ 4. Allegations of residency are “insufficient to establish citizenship” for diversity purposes, *Canedy v. Liberty Mut. Ins. Co.*, 126 F.3d 100, 103 (2d Cir. 1997), because “a statement of residence, unlike domicile, tells the court only where the parties are living and not of which state they are citizens,” *John Birch Soc. v. Nat’l Broad. Co.*, 377 F.2d 194, 199 (2d Cir. 1967). Notwithstanding Plaintiffs’ failure to comply with this Court’s order and sufficiently plead its jurisdiction, the Court will grant the Plaintiffs one last opportunity to properly allege jurisdiction.


Thus, by October 20, 2021, Plaintiffs may file a Second Amended Complaint to properly allege that complete diversity of citizenship exists. If Plaintiffs fail to file a Second Amended

Complaint by that date, then the pending Amended Complaint will be dismissed without prejudice for lack of subject matter jurisdiction.

Given this Order, the Court dismisses without prejudice Defendants' motions to dismiss. *See* Dkt. 21, 24. In the event that Plaintiffs file a Second Amended Complaint, Defendants may move to dismiss without further leave of Court. The Clerk of the Court is respectfully directed to terminate the motions pending at Docket Numbers 21 and 24.

SO ORDERED.

Dated: September 20, 2021  
New York, New York

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JOHN P. CRONAN  
United States District Judge